

ENERGY POLICY ACT OF 2005 (H.R. 6)
REINSTATEMENT OF LEASES
Implementation Guidance

The Energy Policy Act of 2005 states, in part,

Sec. 371 Reinstatement of Leases

(a) Leases Terminated for Certain Failure to Pay Rental- Notwithstanding section 31(d)(2)(B) of the Mineral Leasing Act (30 U.S.C. 188(d)(2)(B)) as in effect before the effective date of this section, and notwithstanding the amendment made by subsection (b) of this section, the Secretary of the Interior may reinstate any oil and gas lease issued under that Act that was terminated for failure of a lessee to pay the full amount of rental on or before the anniversary date of the lease, during the period beginning on September 1, 2001, and ending on June 30, 2004, if--

(1) not later than 120 days after the date of enactment of this Act, the lessee--

(A) files a petition for reinstatement of the lease;

(B) complies with the conditions of section 31(e) of the Mineral Leasing Act (30 U.S.C. 188(e)); and

(C) certifies that the lessee did not receive a notice of termination by the date that was 13 months before [should be “after”] the date of termination; and

(2) the land is available for leasing.

The following guidance provides procedures to implement Section 371(a) of the Energy Policy Act of 2005.

1. For those leases that terminated during the period of September 1, 2001, through June 30, 2004, where the lessee(s) expressed an interest, either orally or in writing, in reinstatement if relief legislation were enacted send the Sample Notice that follows below.
2. If you reinstate a lease and –
 - a. There is not enough time for the lessee to have a reasonable opportunity to continue operations, grant an extension from the date of reinstatement equal to the amount of time that was left on the primary term or any fixed extension thereof (30 U.S.C. 188(d); 43 CFR 3107.6 and 3108.2-3(e)). No additional time may be granted under these rules.
 - b. The primary term has expired, grant an extension of 2 years from the date the lease is reinstated (30 U.S.C. 188(d); 43 CFR 3107.6 and 3108.2-3(e)).

Please Note: Reinstatement is subject to your determination that all Class II criteria are met.

Please Note: Beginning with the date of the Energy Policy Act, the statutory time to petition for Class II reinstatement is now 24 months.

SAMPLE

(State Office Letterhead)

(Date)

In Reply Refer To:
3108 (Office Code)

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

NOTICE

(Name/Address)	:	Serial No.
	:	Terminated: (Date)
	:	Rental/Royalty Due with Petition: (Amount)

CLASS II REINSTATEMENT OFFERED

We notified you on (date) that your Federal oil and gas lease identified above automatically terminated by operation of law because payment of the full amount of rental due was not received by the Minerals Management Service on or before the anniversary date. That notice also advised you could not reinstate this lease because the 15-month statutory period for reinstatement had expired. Section 371(a) of the Energy Policy Act of 2005, signed into law on August 8, 2005, provides additional time for lessees in your circumstances to petition for reinstatement.

We may accept a petition for reinstatement if all the following criteria are met:

- (a) The lease terminated during the period of September 1, 2001, through June 30, 2004;
- (b) A petition for reinstatement is filed before the close of business on December 6, 2005;
- (c) The lessee complies with the conditions of Section 31(e) of the Mineral Leasing Act (30 U.S.C. 188(e));
- (d) The lessee did not receive a termination notice by the date that was 13 months from the date the lease terminated; and
- (e) The lands are available for leasing.

You are eligible to petition for reinstatement if you comply with Section 31(e) of the Mineral Leasing Act and we receive your petition by close of business on December 6, 2005. Your petition must include all the following:

- Your reason(s) why the full amount of rental due was not paid by the anniversary date and which demonstrates justification or no lack of reasonable diligence;
- All back rental or royalty at the increased rates shown below;
 - Leases originally issued noncompetitively: rental at a rate of \$5 per acre or portion thereof per year; royalty at a rate not less than 16 2/3 percent; or
 - Leases originally issued competitively: rental at a rate of \$10 per acre or portion thereof per year; royalty at a rate not less than 16 2/3

percent and at a rate which shall not be less than 4 percentage points greater than the competitive rate currently in effect.

- A nonrefundable \$500 administrative fee;
- Reimbursement of \$155 for publication of a reinstatement notice in the *Federal Register*.

[As appropriate, add one of the following two paragraphs.]

If we grant a reinstatement it will be effective the date your lease terminated. However, the time left in the lease term may not afford you an opportunity to continue operations. If we reinstate your lease, we will extend the term for the amount of time in the unexpired portion of the term remaining at the date of termination (30 U.S.C. 188(d); 43 CFR 3107.6 and 3108.2-3(e)).

If we grant a reinstatement it will be effective the date your lease terminated. However, the primary term has expired. If we reinstate your lease, we will extend it for 2 years from the date of reinstatement (30 U.S.C. 188(d); 43 CFR 3107.6 and 3108.2-3(e)).

(Authorized Officer, Title)